

48A C.J.S. Judges § 24

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

II. Selection, Eligibility, and Qualification

A. Selection

1. In General

§ 24. Time for selection

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Selection to a judicial office must be held at the time provided by law.

Selection to a judicial office must be held at the time provided by law.¹ In accordance with constitutional provisions, the legislature may have the power to specify the time for the selection.² A law which unnecessarily postpones the right to elect a judge is unconstitutional.³

A person cannot be selected to a judicial office which does not exist at the time of the selection.⁴ A person may, however, be nominated to fill an office when it comes into existence at a future date.⁵

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Footnotes

¹ Pa.—[Commonwealth ex rel. Barratt v. McAfee, Secretary of the Commonwealth.](#), 38 Pa. C.C. 315, 1911 WL 5014 (Pa. C.P. 1911).

Exhaustion of elective process

Cal.—[Brown v. Hite](#), 64 Cal. 2d 120, 48 Cal. Rptr. 869, 410 P.2d 373 (1966).

² Cal.—[Fields v. Eu](#), 18 Cal. 3d 322, 134 Cal. Rptr. 367, 556 P.2d 729 (1976).

Lack of recent exercise of power does not affect right to do so

Wis.—[State ex rel. Frederick v. Zimmerman](#), 254 Wis. 600, 37 N.W.2d 473 (1949).

3 Pa.—[Commonwealth v. Maxwell](#), 27 Pa. 444, 2 Phila. 224, 1856 WL 7231 (1856).

4 Miss.—[Hill v. State](#), 157 Miss. 648, 128 So. 878 (1930).

As to the right to hold a judicial office as dependent on the existence of the office, see § 17.

Candidate for abolished office

Ohio—[State ex rel. Weller v. Schirmer](#), 131 Ohio St. 455, 6 Ohio Op. 132, 3 N.E.2d 352 (1936).

5 Miss.—[Hill v. State](#), 157 Miss. 648, 128 So. 878 (1930).

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